

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

RYAN DIAZ,

Plaintiff(s),

v.

NINTENDO OF AMERICA INC,

Defendant(s).

Case No. 2:19-cv-01116-TSZ

ORDER REGARDING INITIAL  
DISCLOSURES, JOINT STATUS  
REPORT, AND  
EARLY SETTLEMENT

**I. INITIAL SCHEDULING DATES**

The Court sets the following dates for initial disclosure and submission of the  
Joint Status Report and Discovery Plan:

Deadline for FRCP 26(f) Conference: 9/16/2019

Initial Disclosures Pursuant to FRCP 26(a)(1): 9/30/2019

Combined Joint Status Report and Discovery  
Plan as Required by FRCP 26(f)  
and Local Civil Rule 26(f): 9/30/2019

The deadlines above may be extended only by the Court. Any request for an  
extension should be made by telephone to Karen Dews, Judicial Assistant, at  
(206) 370-8830. If Defendants have appeared, the parties are directed to meet and to

1 confer before contacting the Court to request an extension.

2 If this case involves claims which are exempt from the requirements of  
3 FRCP 26(a) and 26(f), please notify Karen Dews, Judicial Assistant, by telephone  
4 at (206) 370-8830.

## 5 **II. JOINT STATUS REPORT & DISCOVERY PLAN**

6 All counsel and any pro se parties are directed to confer and provide the Court  
7 with a combined Joint Status Report and Discovery Plan (the "Report") by  
8 September 30, 2019. This conference shall be by direct and personal communication,  
9 whether that be a face-to-face meeting or a telephonic conference. The Report will be  
10 used in setting a schedule for the prompt completion of the case. It must contain the  
11 following information by corresponding paragraph numbers:

- 12 1. A statement of the nature and complexity of the case.
- 13 2. A proposed deadline for the joining of additional parties.
- 14 3. The parties have the right to consent to assignment of this case to a full-time  
15 United States Magistrate Judge, pursuant to 28 U.S.C. §636(c) and Local Rule MJR 13  
16 to conduct all proceedings. The Western District of Washington assigns a wide range of  
17 cases to Magistrate Judges. The Magistrate Judges of this District thus have significant  
18 experience in all types of civil matters filed in our court. Additional information about  
19 our District's Magistrate Judges can be found at [www.wawd.uscourts.gov](http://www.wawd.uscourts.gov). The  
20 parties should indicate whether they agree that the Honorable Brian A. Tsuchida  
21 may conduct all proceedings including trial and the entry of judgment. When  
22 responding to this question, the parties should respond "yes" or "no." Individual  
23 party responses should not be provided. A "yes" response should be indicated only

1 if all parties consent. Otherwise, a "no" response should be provided.

2 4. A discovery plan that states, by corresponding paragraph letters (A, B, etc.),  
3 the parties' views and proposals on all items in Fed. R. Civ. P. 26(f)(3), which  
4 includes the following topics:

5 (A) initial disclosures;

6 (B) subjects, timing, and potential phasing of discovery;

7 (C) electronically stored information;

8 (D) privilege issues;

9 (E) proposed limitations on discovery; and

10 (F) the need for any discovery related orders.

11 5. The parties' views, proposals, and agreements, by corresponding paragraph  
12 letters (A, B, etc.), on all items set forth in Local Civil Rule 26(f)(1), which includes  
13 the following topics:

14 (A) prompt case resolution;

15 (B) alternative dispute resolution;

16 (C) related cases;

17 (D) discovery management;

18 (E) anticipated discovery sought;

19 (F) phasing of motions;

20 (G) preservation of discoverable information;

21 (H) privilege issues;

22 (I) Model Protocol for Discovery of ESI; and;

23 (J) alternatives to Model Protocol.

6. The date by which discovery can be completed.

7. Whether the case should be bifurcated by trying the liability issues before the damages issues, or bifurcated in any other way.

8. Whether the pretrial statements and pretrial order called for by Local Civil Rules 16(e), (h), (i), and (k), and 16.1 should be dispensed with in whole or in part for the sake of economy.

9. Any other suggestions for shortening or simplifying the case.

10. The date the case will be ready for trial. The Court expects that most civil cases will be ready for trial within a year after filing the Joint Status Report and Discovery Plan.

11. Whether the trial will be jury or non-jury.

12. The number of trial days required.

13. The names, addresses, and telephone numbers of all trial counsel.

14. The dates on which the trial counsel may have complications to be considered in setting a trial date.

15. If, on the due date of the Report, all defendant(s) or respondent(s) have not been served, counsel for the plaintiff shall advise the Court when service will be effected, why it was not made earlier, and shall provide a proposed schedule for the required FRCP 26(f) conference and FRCP 26(a) initial disclosures.

16. Whether any party wishes a scheduling conference before the Court enters a scheduling order in the case.

1  
2 17. List the date(s) that each and every nongovernmental corporate party filed  
3 its disclosure statement pursuant to Fed. R. Civ. P. 7.1 and Local Civil Rule 7.1.

4 If the parties are unable to agree to any part of the Report, they may answer in  
5 separate paragraphs. No separate reports are to be filed. If the parties wish to have a  
6 status conference with the Court at any time during the pendency of this action, they  
7 should notify Karen Dews by telephone at (206) 370–8830.

### 8 **III. PLAINTIFF'S RESPONSIBILITY**

9 This Order is issued at the outset of the case, and a copy is sent by the Clerk to  
10 counsel for plaintiff (or plaintiff, if pro se) and any defendants who have appeared.  
11 Plaintiff's counsel (or plaintiff, if pro se) is directed to serve copies of this Order on all  
12 parties who appear after this Order is filed. Such service shall be accomplished  
13 within seven (7) days after each appearance. Plaintiff's counsel (or plaintiff, if pro se)  
14 will be responsible for starting the communications needed to comply with this Order.

### 15 **IV. PROCEDURAL INFORMATION**

16 The Local Rules, Electronic Filing Procedures for Civil and Criminal Cases,  
17 court forms, instruction sheets, and General Orders can be found on the Court's  
18 website at [www.wawd.uscourts.gov](http://www.wawd.uscourts.gov).

### 19 **V. EARLY SETTLEMENT CONSIDERATION AND NOTIFICATION**

20 If settlement is achieved, counsel shall immediately notify Karen Dews,  
21 Judicial Assistant, at (206) 370–8830.

The parties are responsible for complying with the terms of this Order. The Court may impose sanctions on any party who fails to comply fully with this Order.

DATED The 30th of July 2019.

s/ Thomas S. Zilly  
Thomas S. Zilly  
United States District Judge